

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GILBERT M. MARTINEZ,

Plaintiff,

v.

CITY OF READING PROPERTY  
MAINTENANCE DIVISION, and  
READING AREA WATER AUTHORITY,

Defendants.

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CIVIL ACTION NO. 16-1290

**ORDER**

**AND NOW**, this 13th day of March, 2018, after considering the following documents:

(1) the “Motion to Reopen the Time to Appeal Pursuant to Rule 4(A)6 & Memorandum of Law in Support” (“Motion to Reopen”) filed by the *pro se* plaintiff, Gilbert M. Martinez (Doc. No. 56); (2) the responses in opposition to the motion to reopen separately filed by the defendants, City of Reading Property Maintenance Division and Reading Area Water Authority (Doc. Nos. 57, 58); (3) the “Reply and Affidavit in Support of Motion to Reopen Time to Appeal” filed by the plaintiff (Doc. No. 60); (4) the sur-reply in opposition to the motion to reopen filed by the City of Reading Property Maintenance Division (Doc. No. 61); (5) the “Motion Pursuant Fed.R.P.R. [sic] 60B(1)(3)(4)(6) and Sur-Reply to Motion Pursuant to Fed.C.Appeal R. [sic] 4(6)(A) for Time to Reopen Appeal with Memorandum of Law in Support” filed by the plaintiff (Doc. No. 63); (6) Reading Area Water Authority’s “Brief in Opposition to Plaintiff’s Motion Pursuant to F.R.C.P. 60(b)(1)(3)(4)(6) and Sur-Reply to Motion Pursuant to F.R.A.P. 4(a)(6) for Time to Reopen Appeal” (Doc. No. 65); and (7) the “Reply to Defendants response brief opposing Plaintiff’s 60(b) Motion and Request for time to reopen Appeal” filed by the plaintiff (Doc. No. 66); and after holding an evidentiary hearing and hearing oral argument on the motion

to reopen on January 9, 2018, during which the plaintiff and defense counsel were present; and for the reasons set forth in the separately filed memorandum opinion, it is hereby **ORDERED** that the motion to reopen (Doc. No. 56) is **DENIED** as follows:

1. The Motion to Reopen, to the extent that the plaintiff seeks to have the court reopen the time for him to file a notice of appeal from the court's September 29, 2017 order under Rule 4(a)(6) of the Federal Rules of Appellate Procedure, is **DENIED**; and

2. The Motion to Reopen, to the extent that the plaintiff seek to have the court reopen the time for him to file a notice of appeal from the court's November 3, 2017 order, which the court has interpreted as a motion seeking an extension of time to appeal under Rule 4(a)(5) of the Federal Rules of Appellate Procedure, is **DENIED AS MOOT**.

BY THE COURT:

/s/ Edward G. Smith  
EDWARD G. SMITH, J.